



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2416

by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

New Act

Creates the Department of Central Management Services Reorganization Act. Provides that the Department of Central Management Services is abolished on July 1, 2014. Provides for the transfer on that date of the Department's functions to other State agencies. Directs the Auditor General to make recommendations on, receive public comment on, and order the transfer of the Department's functions to other State agencies. Authorizes the General Assembly to disapprove the transfer of functions ordered by the Auditor General. Also provides for the transfer of specified personnel, records, unexpended moneys, and rules. Directs the Legislative Reference Bureau to prepare for introduction a revisory bill effecting such changes in the statutes as may be necessary to conform the statutes to the changes in law made by the Act. Effective immediately.

LRB098 09660 JDS 39806 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Department of Central Management Services Reorganization Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Department" means the Department of Central Management
8 Services.

9 "Deputy Director" means any Deputy Director of the
10 Department.

11 "Director" means the Director of Central Management
12 Services.

13 "State agency" means any of the State agencies described in
14 Section 1-7 of the Illinois State Auditing Act.

15 Section 10. Termination of Director, Deputy Directors, and
16 Department; transfer of functions. On July 1, 2014, the
17 Department is abolished, the terms of persons serving as
18 Director or Deputy Director are terminated, and each function
19 performed by the Department, the Director, or a Deputy
20 Director, as well as associated personnel, shall be transferred
21 in accordance with this Act. The State agencies to which the
22 functions of the Department are transferred under this Act are,

1 with respect to the transferred functions, the successor
2 agencies to the Department under the Successor Agency Act.

3 Section 15. Preliminary report.

4 (a) Beginning on the effective date of this Act, the
5 Auditor General shall study the laws governing the organization
6 and function of the Department and compile, with the assistance
7 of the Director, Deputy Directors, and personnel of the
8 Department, a list of each function that the Department, a
9 Deputy Director, or the Director is required by law to perform.

10 (b) On or before December 31, 2013, the Auditor General
11 shall prepare and submit to the General Assembly a preliminary
12 report that:

13 (1) identifies each function that the Department, the
14 Director, or a Deputy Director is required by law to
15 perform;

16 (2) recommends the State agency or agencies to which
17 each function would be most efficiently transferred once
18 the Department is abolished and the positions of Director
19 and Deputy Director are terminated; and

20 (3) recommends how personnel of the Department are to
21 be allocated among the State agencies to which functions
22 are transferred under this Act.

23 Section 20. Comments on preliminary report. From January 1,
24 2014 until February 1, 2014, the Auditor General shall accept,

1 from the head of any State agency, other than the Director,
2 written comments regarding the recommendations found in the
3 preliminary report.

4 Section 25. Final report and order. On or before May 1,
5 2014, the Auditor General shall prepare and submit to the
6 General Assembly a final report and order that:

7 (1) responds to written comments received under
8 Section 20 of this Act;

9 (2) identifies each function that the Department, the
10 Director, or a Deputy Director is required by law to
11 perform; and

12 (3) orders each of those functions and associated
13 personnel to be transferred to a State agency or agencies
14 other than the Department on July 1, 2014.

15 Section 30. Disapproval by the General Assembly. At any
16 time after the issuance of the final report and order under
17 Section 25 but before July 1, 2014, the General Assembly may,
18 by joint resolution, disapprove the transfer of a function from
19 the Department to a State agency or agencies. However, the
20 joint resolution disapproving the transfer of that function
21 shall be of no effect unless it specifies the State agency or
22 agencies to which that function shall be transferred instead.

23 Section 35. Transfer of functions. If the transfer of a

1 function has not been disapproved by a joint resolution of the
2 General Assembly before July 1, 2014, then that function and
3 all associated rights, powers, duties, and personnel shall be
4 transferred on July 1, 2014 to the State agency or agencies
5 specified in the final report and order prepared by the Auditor
6 General under Section 25. However, if the transfer of a
7 function has been disapproved by a joint resolution of the
8 General Assembly before July 1, 2014, then that function and
9 all associated rights, powers, duties, and personnel shall be
10 transferred on July 1, 2014 to the State agency or agencies
11 specified in the joint resolution of the General Assembly.

12 Section 40. Effect of transfer on boards and commissions.
13 If an Act provides for the membership of the Director on a
14 council, commission, board, or other entity relating to a
15 transferred function and if that function was transferred under
16 this Act to only one other State agency, then the head of the
17 State agency to which that function was transferred shall serve
18 in place of the Director beginning July 1, 2014. However, if an
19 Act provides for the membership of the Director on a council,
20 commission, board, or other entity relating to a transferred
21 function and if that function is transferred under this Act to
22 more than one State agency, then, notwithstanding any other
23 law, the Director's place on that council, commission, board,
24 or entity shall be terminated on July 1, 2014, and the number
25 of members of that entity, as well as the number of members

1 necessary for a quorum of that entity, shall be correspondingly
2 reduced by operation of law.

3 Section 45. Effect of transfer on personnel. The status and
4 rights of employees of the Department shall not be affected by
5 the transfer of functions under this Act. The status and rights
6 of those employees, and the rights of the State of Illinois and
7 State agencies, under the Personnel Code and applicable
8 collective bargaining agreements are not affected by this Act.
9 Personnel affected by this Act shall continue their service
10 with the State agency specified by either the final report and
11 order required under Section 25 or the joint resolution of the
12 General Assembly under Section 30, whichever is applicable.

13 Section 50. Effect of transfer on books and records. All
14 books, records, papers, documents, property (real and
15 personal), contracts, and pending business pertaining to the
16 powers, duties, rights, and responsibilities transferred by
17 this Act from the Department, including, but not limited to,
18 material in electronic or magnetic format and necessary
19 computer hardware and software, shall be transferred and
20 delivered on July 1, 2014, or as soon thereafter as is
21 practicable, to the State agency or agencies to which those
22 functions are transferred under this Act; however, the delivery
23 of that information may not violate any applicable
24 confidentiality constraints.

1 Section 55. Effect of transfer on unexpended moneys. The
2 State agencies to which the functions of the Department are
3 transferred under this Act are, with respect to the transferred
4 functions, the successor agencies to the Department under the
5 Successor Agency Act and Section 9b of the State Finance Act.
6 All unexpended appropriations and balances and other funds
7 available for use in connection with the transferred functions
8 are transferred to the State agency or agencies to which those
9 functions have been transferred for use by those agencies for
10 those purposes. Unexpended balances so transferred shall be
11 expended only for the purpose for which the appropriation was
12 originally made.

13 Section 60. Effect of transfer on exercise of transferred
14 powers. The powers, duties, rights, and responsibilities
15 transferred from the Department by this Act are vested in and
16 shall be exercised by the State agency or agencies to which
17 those functions are transferred under this Act. Each act done
18 in the exercise of those powers, duties, rights, and
19 responsibilities shall have the same legal effect as if done by
20 the Department or its divisions, officers, or employees.

21 Section 65. Effect of transfer on rights, obligations, and
22 duties. The transfer of powers, duties, rights, and
23 responsibilities from the Department under this Act does not

1 affect any person's rights, obligations, or duties, including
2 any civil or criminal penalties applicable thereto, arising out
3 of those transferred powers, duties, rights, and
4 responsibilities. Beginning on July 1, 2014, references to the
5 Department or its officers, employees, or agents in any
6 document, contract, agreement, or law shall, in appropriate
7 contexts, be deemed to refer to the State agency to which the
8 function referenced in that document, contract, agreement, or
9 law has been transferred under this Act or the officers,
10 employees, or agents of that State agency, as applicable.

11 Section 70. Effect of transfer on State agency officers.
12 Every officer of a State agency to which a function is
13 transferred under this Act is, for any offense, subject to the
14 same penalty or penalties, civil or criminal, as are prescribed
15 by existing law for the same offense by an officer of the
16 Department.

17 Section 75. Effect of transfer on reports, notices, and
18 papers. Whenever reports or notices are required to be made or
19 given or papers or documents furnished or served by any person
20 to or upon the Department in connection with a function
21 transferred by this Act, the same shall be made, given,
22 furnished, or served in the same manner to or upon the State
23 agency to which those functions are transferred under this Act.

1 Section 80. Acts and actions unaffected by transfer. This
2 Act does not affect any act done, ratified, or canceled, or any
3 right occurring or established, before July 1, 2014 in
4 connection with the functions transferred by this Act. This Act
5 does not affect any action or proceeding had or commenced
6 before July 1, 2014 in an administrative, civil, or criminal
7 cause regarding the functions transferred by this Act, but any
8 such action or proceeding may be defended, prosecuted, or
9 continued by the State agency or agencies to which functions
10 are transferred under this Act.

11 Section 85. Effect of transfer on rules.

12 (a) Any rule of the Department that (i) relates to the
13 functions transferred by this Act, (ii) is in full force on
14 July 1, 2014, and (iii) has been duly adopted by the Department
15 shall become the rule of the State agency or agencies to which
16 that function is transferred. This Act does not affect the
17 legality of any such rules contained in the Illinois
18 Administrative Code.

19 (b) Any proposed rule filed with the Secretary of State by
20 the Department that is pending in the rulemaking process on
21 July 1, 2014 and that pertains to the functions transferred
22 under this Act shall be deemed to have been filed by the State
23 agency or agencies to which that function is transferred.

24 (c) As soon as practical after July 1, 2014, the State
25 agencies to which functions are transferred under this Act

1 shall revise and clarify the rules transferred to them under
2 this Section to reflect the reorganization of rights, powers,
3 and duties effected by this Act, using the procedures for
4 recodification of rules available under the Illinois
5 Administrative Procedure Act, except that existing title,
6 part, and section numbering for the affected rules may be
7 retained.

8 (d) A State agency to which functions are transferred under
9 this Act may propose and adopt, under the Illinois
10 Administrative Procedure Act, other rules of the Department
11 that will now be administered by that State agency.

12 (e) To the extent that, prior to July 1, 2014, the Director
13 had been empowered to prescribe rules or had other rulemaking
14 authority jointly with the head of any another State agency,
15 such duties shall be exercised on and after July 1, 2014 solely
16 by the head of that State agency.

17 Section 90. Preparation of revisory bill. The Legislative
18 Reference Bureau shall prepare for introduction no later than
19 in the annual session of the General Assembly next occurring
20 after July 1, 2014 a revisory bill effecting such changes in
21 the statutes as may be necessary to conform the statutes to the
22 changes in law made by this Act. The failure of the General
23 Assembly to enact such a bill does not affect the validity of
24 the reorganization.

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.